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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

SILVER & FREEDMAN
A PROFESSIONAL LAW CORPORATION
MITCHELL N. REINIS, CSB 36131
GREGORY N. WEISMAN, CSB 172248
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2029 Century Park East, 19th Floor
Los Angeles, California 90067-3005
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Attorneys for Lights Out Holdings, LLC

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LIGHTS OUT HOLDINGS, LLC, a California limited liability corporation, Plaintiff, vs. LIGHTS OUT SPORTSWEAR, LLC, a Florida limited liability corporation; WILLIAM MEDINA, an individual; CHET PELLETIER, an individual; and DOES 1 through 10, inclusive, Defendants.	CASE NO. '08 CV 1331 WQH NLS **COMPLAINT FOR:** **1. TRADEMARK INFRINGEMENT – FEDERAL;** **2. TRADEMARK INFRINGEMENT –COMMON LAW;** **3. TRADEMARK DILUTION, 15 U.S.C. § 1125(c);** **4. VIOLATION OF ANTICYBERSQUATTING ACT Act, 15 U.S.C. § 1125(d); and** **5. UNFAIR COMPETITION** **DEMAND FOR JURY TRIAL**

Plaintiff, LIGHTS OUT HOLDINGS, LLC ("Plaintiff"), for its complaint against defendants, LIGHTS OUT SPORTSWEAR, LLC ("Sportswear"), WILLIAM MEDINA ("Medina"), CHET PELLETIER ("Pelletier") (Sportswear, Medina and Pelletier are collectively referred to herein as "Defendants") and Does 1-10, allege:

FIRST CAUSE OF ACTION

(Federal Trademark Infringement)

1. Plaintiff is a limited liability company duly organized and existing under the laws of the State of California, with its principal place of business in the County of San Diego and doing business both intrastate and in interstate commerce.

2. Plaintiff is informed and believes and, based thereon, alleges that: (i) defendant Sportswear is a limited liability company formed and existing under the laws of the State of Florida with its principal place of business in Brandon, FL; (ii) defendant Medina is an individual and is a citizen of and resides in the State of Florida; and (iii) defendant Pelletier is an individual and is a citizen of and resides in the State of Florida. The matter in controversy, exclusive of interest and costs, exceeds $75,000.

3. Plaintiff is informed and believes and, based thereon, alleges that Defendants adopted the name "Lights Out Sportswear" in or around January 2008. Plaintiff is informed and believes that Defendants are engaged in interstate commerce through, *inter alia*, their website "www.lightsoutsportswear.com", wherein they sell "Lights Out" and "Lights Out Sportswear" branded apparel items including t-shirts, tank tops, sweatshirts, shorts and hats; and that they advertise and solicit customers through the domain name "lightsoutsportswear.com" in all states and counties in the United States, including within this District. Defendants' "Lights Out" and "Lights Out Sportswear" apparel is sold in connection with the sport of mixed martial arts. Attached hereto as exhibit A is a copy of Defendants' homepage of their website.

4. The true names or capacities, whether individual, corporate, associate or otherwise of the defendants sued herein as DOES 1 through 10, inclusive are unknown to Plaintiff who, therefore, sues such defendants by such fictitious names. Plaintiff will ask for leave to amend this pleading to show their true names or capacities when the same have been ascertained. Plaintiff is informed and believes

and, based thereon, alleges that each of the DOE defendants conspired with and aided and abetted the other Defendants to do the things complained hereof.

5. Plaintiff is informed and believes and, based thereon, alleges that each of the Defendants was the agent and/or employee of each of the remaining Defendants and, in doing the things alleged herein, was acting as a conspirator, agent, partner, or joint venturer with Medina and Pelletier.

6. This action is for infringement of Plaintiff's trademarks in violation of the laws of the United States and for related state law violations. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §1121(a) (trademark actions), 28 U.S.C. §1331 and § 1338 (federal question) and 28 U.S.C. §1367(a) (supplemental jurisdiction). Jurisdiction is also founded upon diversity of citizenship under 28 U.S.C. § 1332.

7. Plaintiff is informed and believes and, based thereon, alleges that Defendants have engaged in interstate and intrastate commerce with citizens of this and other States and utilized and profited from activities conducted on worldwide websites directed to consumers internationally and in every state and county in the United States.

8. Plaintiff is informed and believes and, based thereon, alleges that venue is proper in this judicial district under 28 U.S.C. § 1391 in that Defendants have done and are doing business in this district, and a substantial part of the events complained of by Plaintiff occurred here.

9. Plaintiff's principal is Shawne Merriman ("Merriman"). Merriman is a prominent football player in the National Football League. For the past three years, Merriman has played outside linebacker for the San Diego Chargers.

10. Merriman is known throughout the United States and worldwide as "Lights Out," a nickname granted in high school befitting his vicious hitting style. Seeking to develop a unique off-the-field business, in or about 2002, Merriman launched an apparel line bearing the name and trademark "LIGHTS OUT" and

commenced sales of apparel goods intrastate and in interstate commerce, which sales and use of the mark in commerce continue today.

11. In order to further bolster his common law rights in his mark, for a substantial sum, Merriman purchased all right, title and interest to the federally registered trademark "LIGHTS OUT" (US Reg. No. 2885212) in International Class 25 (apparel) as formerly owned by Loomworks Apparel, Inc., including US trademark registration No. 2,885,212, as well as all goodwill appertaining thereto. A copy of the trademark registration is attached hereto as exhibit B. Thereafter, on or about October 22, 2007, Merriman assigned the rights to the "LIGHTS OUT" trademarks to Plaintiff. Attached hereto as exhibit C is a copy of the USPTO Trademark Assignment Abstract of Title memorializing such assignment to Plaintiff.

12. In addition to its common law rights and the trademark registration detailed above, Plaintiff is also the owner of a pending application for US trademark registration in International class 25 (clothing) for a stylized logo featuring the "Lights Out" mark (Serial No. 78725829, filed October 5, 2005). A copy of said trademark application is attached hereto as exhibit D.

13. Plaintiff and its assignor Merriman have owned and/or consistently used the "LIGHTS OUT" trademarks listed above (the "Marks") in connection with apparel in interstate commerce since at least 2002. The "LIGHTS OUT" trademarks have gained secondary meaning identifiable with Plaintiff.

14. Plaintiff is informed and believes that Defendants began a pattern of infringement upon its Marks by forming their company using the dominant words "LIGHTS OUT" and using that name in business, on its website, and on apparel goods. Said adoption and use by Defendants was long after Plaintiff adopted and first used its trademarks, and done with knowledge, constructive or actual, of Plaintiff's trademarks.

15. Plaintiff has devoted substantial resources in the establishment of the goodwill, consumer recognition and nationwide reputation of the Marks, and the Marks and its associated goodwill, consumer recognition and reputation are valuable property rights of Plaintiff.

16. Defendants' name and mark are substantially identical in appearance, sound, and connotation to Plaintiff's Marks; and, in particular, the dominant words "LIGHTS OUT" are identical to Plaintiff's Marks. Defendants' marks so resemble Plaintiff's Marks as to be likely to cause confusion, to cause mistake, or to deceive the consuming public.

17. Plaintiff is informed and believes that customers and consumers are likely to consider the items offered under Defendants' name and mark as emanating from Plaintiff and are likely to patronize the same believing the source is Plaintiff. Concurrent use of Plaintiff's Marks and Defendants' mark may result in irreparable damage to Plaintiff's reputation and goodwill since customers, consumers and the trade are likely to be confused about whether Plaintiff is the source of the product offered by Defendants, or that Defendants have been licensed or authorized to use Plaintiff's Mark when that is not the case.

18. Plaintiff is informed and believes and upon such information and belief alleges that Defendants threaten to and, unless restrained will, continue the acts complained of herein, all to Plaintiff's irreparable damage in that it will be extremely difficult to ascertain the amount of compensation that would afford Plaintiff adequate relief therefor, and unless this Court grants an injunction preventing Defendants from using Plaintiff's Marks and preventing Defendants from using trademarks and domain names that are confusingly similar to Plaintiff's Marks, Plaintiff will not be able to prevent infringement of its Marks and will be irreparably damaged.

19. Defendants' said conduct has caused, continues to cause, and is likely in the future to cause confusion, mistake and deception in the minds of the public

and the trade and to injure and damage Plaintiff's goodwill for which there is no adequate remedy at law. By reason of the foregoing, Plaintiff has suffered and continues to suffer damages and injury to its business, goodwill, and profits, the precise amount to be determined at trial, and Plaintiff is entitled to the remedies provided in 15 U.S.C. §1116 et. seq.

SECOND CAUSE OF ACTION

(Common Law Trademark Infringement)

20. Plaintiff hereby alleges, repeats and incorporates paragraphs 1-15 above as though set forth in full.

21. Plaintiff is the senior user of the trademark "LIGHTS OUT" in connection with apparel. At all times herein concerned, Plaintiff consistently used said mark in intrastate and interstate commerce, and this mark has become associated with Plaintiff in the minds of the public.

22. Plaintiff has devoted substantial resources in the establishment of the goodwill, consumer recognition and nationwide reputation of the "LIGHTS OUT" mark, and the goodwill, consumer recognition and reputation are valuable property rights.

23. Plaintiff is informed and believes that Defendants have infringed upon the "LIGHTS OUT" mark by using the names "LIGHTS OUT" and "Lights Out Sportswear" on apparel without authority or consent from Plaintiff.

24. Plaintiff is informed and believes and, based thereon, alleges that customers and consumers are likely to consider the products offered and sold by Defendants bearing the "LIGHTS OUT" and "Lights Out Sportswear" names as emanating from or being associated with Plaintiff and are likely to seek said products from Defendants believing the source is Plaintiff.

25. Plaintiff is informed and believes and, based thereon, alleges that Defendants use of the Marks has resulted in irreparable damage to Plaintiff's reputation and goodwill since customers, consumers and the trade are likely to be

confused about the source of the products offered by Defendants or believe erroneously that Defendants have been licensed or authorized to use said mark on apparel products.

26. Plaintiff is informed and believes, and, based thereon, alleges that Defendants threaten to and, unless restrained, will continue the acts complained of herein, all to Plaintiff's irreparable damage in that it will be extremely difficult to ascertain the amount of compensation that would afford adequate relief therefor, and unless this Court grants an injunction preventing cross-defendants from using said confusingly similar trademark, Plaintiff will not be able to prevent infringement thereof and will be irreparably damaged.

27. Plaintiff is informed and believes and upon such information and belief alleges that Defendants' conduct has caused, continues to cause, and is likely in the future to cause confusion, mistake, and deception in the minds of the public and the trade and to injure and damage Plaintiff's goodwill for which there is no adequate remedy at law. By reason of the foregoing, Plaintiff has have suffered and continues to suffer damages and injury to its business, goodwill and profits, the precise amount to be determined at trial, and Plaintiff is entitled to the remedies provided for in 15 U.S.C. §1116 et seq.

THIRD CAUSE OF ACTION

(Trademark Dilution under State and Federal Law)

28. Plaintiff hereby re-alleges, and incorporates paragraphs 1 through 20 above as though set forth in full.

29. Plaintiff's Marks are unique, fanciful, highly distinctive and famous within the meaning of 15 U.S.C. §1125(c).

30. Defendants have used and are continuing to use Plaintiff's Marks in international, interstate and intrastate commerce in this State and elsewhere.

31. Defendant's use of the Marks began and continued after the Marks became famous and were well known to the public and the trade.

32. Defendants' commercial use in commerce of Plaintiff's Marks causes dilution of the distinctive quality of the Marks and threatens to debase and cheapen it.

33. Plaintiff is informed and believes and, based thereon, alleges that Defendants willfully intended to trade on Plaintiff's reputation and willfully intended to cause dilution of Plaintiff's famous Marks.

34. By reason of the foregoing, Defendants have violated and are continuing to violate 15 U.S.C. § 1125(c) and the law of this state relative to dilution.

35. Defendants' unauthorized use of the above-identified Marks causes irreparable injury to Plaintiff, including injury to its business reputation and dilution of the distinctive quality of its Marks.

36. Plaintiff is informed and believes that the Defendants threaten to continue to infringe and dilute Plaintiff's Marks unless restrained and enjoined, and Plaintiff will continue to be damaged as it will have no adequate remedy at law.

37. Plaintiff is entitled to recover damages from Defendants, including attorney fees, and any gains, profits and advantages obtained by Defendants as a result of Defendants' willful acts causing the dilution alleged above.

FOURTH CAUSE OF ACTION

(Violation of Anticybersquatting Act, 15 U.S.C. §1125(d))

38. Plaintiff hereby re-alleges, and incorporates paragraphs 1 through 20 above as though set forth in full.

39. Plaintiff is informed and believes and, based thereon, alleges that Defendants registered and are using the domain name "lightsoutsportswear.com" in commerce in bad faith and with the intent to profit therefrom in violation of the provisions of the Anticybersquatting Consumer Protection Act, 15 U.S.C. §1125(d).

40. As a direct and proximate cause of such violation, Plaintiff is entitled to injunctive relief, statutory damages of $100,000 per violation or actual damages

according to proof, forfeiture, cancellation or transfer of each such domain name to Plaintiff, and attorney fees.

FIFTH CAUSE OF ACTION

(Unfair Competition)

41. Plaintiff hereby re-alleges, and incorporates paragraphs 1 through 20 above as though set forth in full.

42. Defendants' actions alleged above constitute unlawful and unfair business practices in violation of common law and the laws of this State.

43. As a direct, proximate and foreseeable result of Defendants' unlawful and unfair business practices, Defendants have been unjustly enriched at Plaintiff's expense in an amount not yet ascertained. Accordingly, Plaintiff is entitled to obtain an accounting and restitution from Defendants in an amount to be determined at trial.

44. As a direct, proximate and foreseeable result of Defendants' unlawful and unfair business practices, Plaintiff has suffered and will continue to suffer great and irreparable harm, including, but not limited to, harm to its business, reputation and goodwill. Plaintiff is informed and believes that defendants will continue to further compete unlawfully and unfairly with Plaintiff unless restrained and enjoined, and Plaintiff does not have an adequate remedy at law. Therefore, Plaintiff is entitled to injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Lights Out Holdings, LLC prays for the following relief:

1. Preliminary and permanent injunctive relief enjoining Defendants, and Defendants' officers, agents, servants, employees, and all persons acting in concert with them, from directly or indirectly:

(a) using or engaging in acts that infringe or dilute Plaintiff's "LIGHTS OUT" Marks or any other trademark, business name or trade name confusingly similar to Plaintiff's "LIGHTS OUT" Marks;

(b) injuring the reputation of Plaintiff or its Marks; and

2. For actual, compensatory, and statutory damages;

3. For an accounting of all sales and profits of garments using the "LIGHTS OUT" and "Lights Out Sportswear" names;

4. For restitution;

5. For an order for destruction or elimination of all Defendants' products, advertising and promotional material bearing the names "LIGHTS OUT" and "Lights Out Sportswear";

6. For forfeiture, cancellation or transfer to Plaintiff of Defendants' domain name "lightsoutsportswear.com" and all other domain names utilizing the Marks;

7. For an award of punitive and exemplary damages;

8. For treble damages for trademark infringement;

9. For an award of prejudgment interest, costs of suit, and reasonable attorney fees as allowed by law; and

10. For such other and further relief as the court deems just.

July 23, 2008

SILVER & FREEDMAN
A Professional Law Corporation

By: ______________________
GREGORY N. WEISMAN,
Attorneys for Lights Out Holdings, LLC

DEMAND FOR JURY TRIAL

Plaintiff, Lights Out Holdings, LLC hereby demands a trial by jury on all claims.

July 23, 2008

SILVER & FREEDMAN
A Professional Law Corporation

By: ______________________
GREGORY N. WEISMAN,
Attorneys for Lights Out Holdings, LLC

EXHIBIT A

Exhibit A

LIGHTSOUTSPORTSWEAR.COM
FIGHTGEAR
fightwear
Lightsoutsportswear.com exclusive fightwear is for both men and women. Fightwear includes tshirts, tanks, sweatshirts, hats and accessories. To see the complete fightwear line,
Click Here.
fighters
We are committed and proud to feature fighters including their stats, rankings, general facts and upcoming bouts. To learn more about our featured fighters,
Click Here.
photo gallery
Lightsoutsportswear.com exclusive fightwear is sold nationwide. Be part of the attitude that is Lightsoutsportswear.com.
Check out our most recent photo shoot from Tampa Florida.
Click Here.
events / bouts
To get a listing of upcoming events both locally and nationally and links to the UFC, WFC, XFC, & IFL and other venues as well as a listing of specific fighters chalanges, see links below.
Click Here.
ULTIMATE FIGHTGEAR
XFC - June 28 Tampa
UFC - July 5 Las Vegas
IFL - Aug. 15 Meadowlands
home · fightwear · fighters · events · photos · sponsorships · about us · contact
Lights Out Sportswear © 2008 All Rights Reserved · Site Design:

Exhibit B

United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

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Start List At: OR Jump to record: **Record 2 out of 3**

TARR Status | ASSIGN Status | TDR | TTAB Status ***(Use the "Back" button of the Internet Browser to return to TESS)***

Typed Drawing

Word Mark	LIGHTS OUT
Goods and Services	IC 025. US 022 039. G & S: Clothing and shoes for men, women and children, namely, anklets, anoraks, athletic footwear, athletic shoes, athletic uniforms, beachwear, belts, blouses, boots, bottoms, boxer shorts, brassieres, briefs, bustiers, caps, cardigans, coats, footwear, gloves, golf shirts, hats, headbands, headwear, intimate apparel, jackets, jeans, jerseys, jogging suits, jumpers, knit shirts, night wear, overalls, overcoats, pajamas, pants, polo shirts, pullovers, quilted vests, raincoats, robes, shirts, shoes, shorts, sleepwear, sport coats, sport shirts, sweaters, sweatpants, sweatshirts, skirts, socks, sweatsuits, tank tops, tops, tracksuits, trousers, T-shirts, underwear, V-neck sweaters, vests, waistcoats. FIRST USE: 20040611. FIRST USE IN COMMERCE: 20040611
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	78213141
Filing Date	February 10, 2003
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	September 23, 2003
Registration Number	2885212
Registration Date	September 14, 2004
Owner	(REGISTRANT) Loomworks Apparel, Inc. CORPORATION CALIFORNIA 2102 Alton Parkway Suite A Irvine CALIFORNIA 92606 (LAST LISTED OWNER) LIGHTS OUT HOLDINGS, LLC LTD LIAB CO CALIFORNIA 10617 BIRCH BLUFF AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Neill A. Levy
Type of Mark	TRADEMARK

Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EXHIBIT C

Exhibit C

United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 78213141 **Filing Dt:** 02/10/2003 **Reg #:** 2885212 **Reg. Dt:** 09/14/2004

Registrant: Loomworks Apparel, Inc.

Mark: LIGHTS OUT

Assignment: 1

Reel/Frame: 3591/0723 **Received:** 07/31/2007 **Recorded:** 07/31/2007 **Pages:** 6

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: LOOMWORKS APPAREL, INC. **Exec Dt:** 07/27/2007 **Entity Type:** CORPORATION **Citizenship:** CALIFORNIA

Assignee: MERRIMAN, SHAWNE D. **Entity Type:** INDIVIDUAL **Citizenship:** UNITED STATES
1744 POINCIANA DRIVE
EL CAJOHN, CALIFORNIA 92021

Correspondent: MELISSA WOO
655 WEST BROADWAY
15TH FLOOR
SAN DIEGO, CA 92101

Assignment: 2

Reel/Frame: 3591/0796 **Received:** 07/31/2007 **Recorded:** 07/31/2007 **Pages:** 6

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: LOOMWORKS APPAREL, INC. **Exec Dt:** 07/27/2007 **Entity Type:** CORPORATION **Citizenship:** CALIFORNIA

Assignee: MERRIMAN, SHAWNE D **Entity Type:** INDIVIDUAL **Citizenship:** UNITED STATES
1744 POINCIANNA DRIVE
EL CAJON, CALIFORNIA 92021

Correspondent: MELISSA W. WOO
655 WEST BROADWAY
15TH FLOOR
SAN DIEGO, CA 92101

Assignment: 3

Reel/Frame: 3706/0221 **Received:** 01/29/2008 **Recorded:** 01/29/2008 **Pages:** 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: MERRIMAN, SHAWNE, MR. **Exec Dt:** 10/22/2007 **Entity Type:** INDIVIDUAL **Citizenship:** UNITED STATES

Assignee: LIGHTS OUT HOLDINGS, LLC **Entity Type:** LIMITED LIABILITY COMPANY **Citizenship:** CALIFORNIA
10617 BIRCH BLUFF AVENUE
SAN DIEGO, CALIFORNIA 92131

Correspondent: KATHRYN A. TYLER
2029 CENTURY PARK EAST
19TH FLOOR
LOS ANGELES, CA 90067

Search Results as of: 07/22/2008 03:44 PM
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Exhibit D

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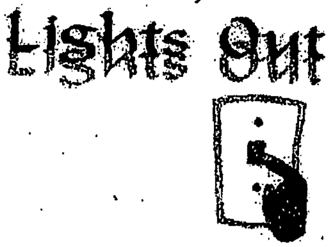

Word Mark	LIGHTS OUT
Goods and Services	IC 025. US 022 039. G & S: Replica football jerseys, replica uniform shirts, replica uniform pants
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	02.11.07 - Arms; Fingers; Hands; Human hands, fingers, arms 15.09.03 - Outlets, electrical; Power outlets; Switches, electrical wall
Serial Number	78725829
Filing Date	October 4, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	October 23, 2007
Owner	(APPLICANT) LIGHTS OUT HOLDINGS, LLC LTD LIAB CO CALIFORNIA 10617 BIRCH BLUFF AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Gregory N. Weisman
Prior Registrations	2885212
Description of Mark	Color is not claimed as a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 153279 - TC

July 23, 2008
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USAO #.: 08CV1331
Judge..: WILLIAM Q HAYES
Amount.: $350.00 CK
Check#.: BC64173

Total-> $350.00

FROM: LIGHTS OUT HOLDINGS, LLC
VS.
LIGHTS OUT SPORTSWEAR

ORIGINAL VIA FAX

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED 08 JUL 23 PM 2:17

CLERK U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

I. (a) PLAINTIFFS

LIGHTS OUT HOLDINGS, LLC

(b) County of Residence of First Listed Plaintiff: San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Silver & Freedman, APLC, 2029 Century Park East, 19th Floor, Los Angeles, California 90067 Tel. (310) 282-9400

DEFENDANTS

LIGHTS OUT SPORTSWEAR, LLC; WILLIAM MEDINA; and CHET PELLETIER

County of Residence of First Listed Defendant: Brandon, FL

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'08 CV 1331 WQH NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☒ 4	☐ 4
Citizen of Another State	☐ 2	2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☒ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. Section 1125 (a) and (d)

Brief description of cause: Trademark Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $ Not less than $75k, Injunctive Relief, forfeiture or cancellation of domain name

CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER ______

DATE: JULY 23, 2008

SIGNATURE OF ATTORNEY OF RECORD: [signature]

FOR OFFICE USE ONLY

RECEIPT # 153279 AMOUNT $350 APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

[initials] 7/23/08

JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.